



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

520 Capitol Mall, Suite 600 • Sacramento, California 95814-3368
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

September 12, 2019

Hon. Brian Maienschein
Member of the Assembly
State Capitol, Room 2170
Sacramento, California 95814

Subject: Assembly Bill 859 (Maienschein), as amended September 6, 2019 – Neutral

Dear Assembly Member Maienschein:

I am writing to inform you that the Judicial Council has withdrawn its opposition to AB 859, and instead has adopted a position of neutral. AB 859 requires the State Department of Social Services (DSS), in consultation with the Judicial Council, to convene a stakeholder group, as defined, to make recommendations by January 1, 2022 related to juvenile dependency proceedings, with the purpose of improving child and family outcomes in juvenile dependency court and enhancing collaboration between juvenile dependency courts and child welfare services.

As a result of amendments that removed the language regarding the creation of appropriate caseload standards for judicial officers sitting in dependency hearings, there is no longer a basis for JCC's opposition. The current requirement to work with California Department of Social Services (DSS) is consistent with the Judicial Council's role on the Child Welfare Council and does not pose additional or unforeseeable workload impacts. We look forward to working with DSS on this effort.

Hon. Brian Maienschein

September 12, 2019

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Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

Mailed on September 12, 2019

Andi Liebenbaum

Attorney

AL/yc-s

cc: Mr. Anthony Williams, Legislative Affairs Secretary, Office of the
Governor

Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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June 28, 2019

Hon. Hannah-Beth Jackson, Chair
Senate Judiciary Committee
State Capitol, Room 2032
Sacramento, California 95814

Subject: Assembly Bill 859 (Maienschein), as amended June 19, 2019 – Oppose
Hearing: Senate Judiciary Committee – July 2, 2019

Dear Senator Jackson:

The Judicial Council regrettably opposes AB 859, which requires the Judicial Council to study and identify the appropriate caseload standards for judges who adjudicate juvenile dependency proceedings. The bill would require the Judicial Council to submit a report to the Legislature with the results of the study no later than January 1, 2021. The bill also requires the Department of Social Services, in conjunction with the Judicial Council, to address efficiencies and methods to reduce the workload of dependency judges.

The bill implicates separation of powers issues which conflict with the authority of presiding judges to make assignments of judicial officers within their courts. The separation of powers concerns are rooted in the bill from its inception; as it was introduced, the bill required the Judicial Council to promulgate rules of court related to appropriate caseload standards for judicial officers in child welfare (dependency) cases. The bill's sponsor continues to advocate for a qualitative limit to the number of cases assigned to dependency judges; the requirement to identify an "appropriate caseload standard" serves as a step in that direction.

Hon. Hannah-Beth Jackson

June 28, 2019

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Moreover, the goal of the study as identified in subdivision (a), to identify “appropriate caseload standards,” is not information the Judicial Council can provide, regardless of the caveats contained in subdivision (c). The judicial time standards referenced in subdivision (c) and reported to the Judicial Council express how much time bench officers *currently spend* (based on a three-year rolling average of filings) on their specific case types, including dependency cases. The time standards do not provide any qualitative information as to what number of judicial officers, or minutes or hours per case, would be preferable (in other words, “appropriate”).

Requiring the Judicial Council to highlight and share with the Legislature (presumably) inadequate numbers of judicial officers in one case type sets up an internal division in a branch where every court struggles with inadequate resources. The divisive nature of the bill, coupled with feedback from the Children’s Advocacy Institute that they would not support funding for judgeships more broadly because there was no appetite if those judges were not assigned to dependency cases, underscore the need for the Judicial Council’s opposition.

The issue of judicial needs and increasing the number of authorized judgeships have been part of the judicial branch landscape since 2005 when the Judicial Council committed to seeking 150 new trial court judgeships over three years. For a detailed explanation of this policy priority, please see the enclosed New Judgeships Fact Sheet which includes a detailed look at the judgeship advocacy timeline. The 25 judgeships included in the 2019–20 budget represent the 53rd through 77th judges of that original goal of 150. At no time has the Judicial Council engaged in consideration of preferred assignments for the requested judgeships. Presiding judges are charged with allocating their judicial resources based on filings and local needs and priorities. It would be inappropriate to interfere with local presiding judges and dictate the calendar assignments of future judicial officers.

Because the Legislature already requires the council to develop a biennial judicial needs assessment, and given that the branch is currently undergoing an update to the time standards underlying that study, there is no need for a duplicative report. We have shared these concerns with the Department of Social Services.

For these reasons, the Judicial Council opposes AB 859.

Should you have any questions or require additional information, please contact Andi Liebenbaum at 916-323-3121.

Sincerely,

Mailed on June 28, 2019

Cory T. Jaspersen
Director, Governmental Affairs

Hon. Hannah-Beth Jackson

June 28, 2019

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CTJ/AL/yc-s

cc: Members, Senate Judiciary Committee
Hon. Brian Maienschein, Member of the Assembly
Mr. Ed Howard, Senior Counsel, Children's Advocacy Institute
Mr. Josh Tosney, Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant Senate Republican Office of Policy
Mr. Anthony Williams, Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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770 L Street, Suite 1240
Sacramento, CA
95814
Tel 916-323-3121
Fax 916-323-4347
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FACT SHEET

December 2018

New Judgeships

California continues to suffer from a severe shortage of trial court judges. The ramifications are potentially serious and far-reaching, including a lack of access to the courts, compromised public safety, an unstable business climate, and backlogs in some courts that inhibit fair, timely, and equitable justice.

A detailed analysis of judicial workload conducted in 2016 identified a need for more than 180 additional judges to satisfy workload requirements in California's 58 Superior Courts.

Prior Legislation

In 2005, the Judicial Council committed to seeking 150 new trial court judgeships over three years, and sponsored SB 56 (Stats. 2006, ch. 390), which authorized the first 50 of the 150 critically needed judgeships. These 50 judgeships were funded in the 2007 Budget Act, and judges were appointed to each of them.

In 2007, AB 159 (Stats. 2007, ch. 722) authorized the second set of 50 judgeships; these judgeships, however, remain unfunded. The Judicial Council also sponsored legislation to authorize the third set of 50 judgeships or fund all or some of the authorized judges pursuant to AB 159 (above) in 2008 (SB 1150, Corbett), 2009 (SB 377, Corbett), 2011 (AB 1405, Feuer), 2014 (SB 1190, Jackson), 2015 (SB 229, Roth), 2016 (SB 1023, Judiciary Committee), and 2018 (SB 38, Roth), but these efforts have been unsuccessful.

In 2017, pursuant to AB 103 (Stats. 2017, ch. 17), two vacant judgeships were reallocated from the trial court in Santa Clara to the trial court in Riverside, and two vacant judgeships were reallocated from the trial court in Alameda to the trial court in San Bernardino.

Two new judgeships were created to be allocated to the Riverside Superior Court in SB 847 (Stats. 2018, Ch. 45), a 2018 Budget Trailer Bill that focuses on court issues.

Background

Courts face the most urgent need for judges in California counties that experienced significant population growth during the last quarter of the 20th century, and whose authorized and funded judicial positions did not keep pace with their need.

- San Bernardino County has experienced a 13 percent growth in population in the last decade. The court has 88 authorized and funded positions for judges, but has an assessed need for 126 judges. In other words, the court is operating with only 69% of the judges it needs based on recent data as reflected in the *2018 Judicial Needs Assessment*.
- Riverside County has experienced a 30 percent growth in population in recent years, and remains one of the state's fastest growing counties. The court has 80 authorized and funded judicial positions, but has an assessed need of 116. That means Riverside is operating with only 69% of the judges it needs.
- Kern County has experienced a 15 percent growth in population since 2009. It is authorized and funded for 43 judgeships, which is 25% percent less than the judges it needs.
- Fresno's population exploded by more than 100,000 from 2000 to now, representing an increase of over 20%. With only 49 of its 57 judges authorized and funded, Fresno operates with 86% of the judges it needs.

Legislation authorizing and funding judgeships is a crucial step to addressing this need and improving access to justice throughout the state.

Consequences of Too Few Judicial Officers

- Some courts may be unable to provide an adequate level of justice to people who need access to the courts.
- Public safety may be endangered when there are too few judicial officers to hear criminal cases. Likewise, heavy criminal caseloads without sufficient judges available for trials may pressure courts to

accept plea deals because these cases must be dismissed if not heard within specified time frames.

- An insufficient number of judges may result in delays in civil case processing, harming civil litigants including business owners, families, children and victims of domestic violence.
- All Californians need access to courts to address civil matters of all types, including:
 - Child custody, divorce, paternity, and support issues
 - Evictions, HOA disputes, and other housing issues
 - Domestic and workplace violence issues
- An increase in judgeships would allow the judicial branch to increase diversity among bench officers, which in turn enriches judicial decision-making and access to justice for Californians of diverse cultural backgrounds, languages and socioeconomic circumstances.

Legislative Solution

The Judicial Council will continue to sponsor legislation to fund the remaining judgeships of the second set of 50 previously authorized judgeships. Likewise, the council will sponsor legislation to authorize additional judgeships so that we remain on a constructive path towards meeting the judicial needs of the people of California. This stepping-stone approach will spread the costs associated with new judgeships over time, while providing more immediate relief to our most overworked courts as soon as possible.

Each year, the Judicial Council updates the costs associated with funding new judgeships, including the costs associated with staff required to support the work of each new judge. Currently, the average judge is supported by approximately nine full time staff including courtroom and office clerks, research attorneys, administrative support, window and self-help center staff, and security. A legislative solution addresses both the costs of the judicial officer as well as the costs associated with staff to make sure judges have the resources they need to be successful, and to ensure the people in their courts receive justice.

Contacts:

Cory Jaspersen, Director, Government Affairs, cory.jaspersen@jud.ca.gov

Andi Liebenbaum, Attorney, Government Affairs, andi.liebenbaum@jud.ca.gov



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Member of the Assembly
State Capitol, Room 4208
Sacramento, California 95814

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Hearing: Senate Judiciary Committee – July 2, 2019

Dear Assembly Member Maienschein:

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Hon. Brian Maienschein

June 28, 2019

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Mailed on June 28, 2019

Andi Liebenbaum

Attorney

AL/yc-s

Enclosure

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Mr. Anthony Williams, Legislative Affairs Secretary, Office of the
Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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